

---

JUDICIAL ASSIGNMENT ORDER

---

DATE: June 11, 1999

COURT OF APPEALS: DISTRICT IV

By order of June 11, 1999, the Supreme Court refused the certification from the Court of Appeals of the appeal in *Moran v. Wis. Dept. of Admin., et al.*, No. 98-3008, and requested the chief justice to designate and assign reserve judges to serve temporarily in the Court of Appeals to resolve that appeal. In the certification, submitted May 6, 1999, the Court of Appeals had noted a potential conflict of interests if the appeal were to be heard and decided by either the Supreme Court or the Court of Appeals, as the decision would directly affect the salaries of the justices and judges of those courts. The Court of Appeals also pointed out the rule of necessity, which allows a court to act in a case in which the judges have an arguably disqualifying interest if the court is the only tribunal with the power to decide the issues presented. The Court of Appeals suggested that if the Supreme Court declined certification, the chief justice might consider convening a panel of reserve judges to decide the case.

The Wisconsin Constitution authorizes, as may be provided by law, that a person who has served as a supreme court justice or judge of a court of record may serve as a judge of any court of record except the Supreme Court on a temporary basis if assigned by the chief justice of the Supreme Court. Wis. Const. art. VII, § 24(3). The chief justice of the Supreme Court has statutory authority to designate and assign reserve judges to serve temporarily in the Court of Appeals. Wis. Stat. § 751.03(1).

Accordingly, I directed the staff of the Supreme Court to provide me with the names of all reserve judges who formerly served on the Supreme Court, the Court of Appeals, or the circuit court for designation and assignment by me to serve temporarily in the Court of Appeals for the purpose of the appeal in *Moran v. Wis. Dept. of Admin., et al.*, No. 98-3008. Pursuant to my direction, the clerk of the Supreme Court drew at random the names of the reserve judges who are former supreme court justices or court of appeals judges and communicated with them in the order in which their names were drawn until three of them had agreed to accept designation and assignment to serve temporarily in the Court of Appeals for purposes of this appeal. If unable to obtain three of those reserve judges to accept designation and assignment to serve, the Clerk was directed to draw at random the names of reserve judges who are former circuit court judges and communicate with them in the order in which their names were drawn until the number needed to form a three-judge panel was reached.

The clerk of the Supreme Court has drawn the names of the reserve judges as directed, and the following reserve judges have agreed to serve temporarily in the Court of Appeals for purposes of the appeal in *Moran v. Wis. Dept. of Admin., et al.*, Case No. 98-3008:

Hon. Paul C. Gartzke

Hon. Daniel L. LaRocque

Hon. Michael T. Sullivan

As chief justice and pursuant to my constitutional and statutory authority and the request of the Supreme Court, I designate and assign the following reserve judges: Hon. Paul C. Gartzke, Hon. Daniel L. LaRocque, and Hon. Michael T. Sullivan to serve temporarily in the Court of Appeals, District IV, to hear and decide the appeal in *Moran v. Wis. Dept. of Admin., et al.*, Case No. 98-3008.

I request that the presiding judge of the Court of Appeals, District IV, assign staff assistance and space in this matter as may be requested.

---

Shirley S. Abrahamson  
Chief Justice, Wisconsin Supreme Court

cc: Hon. R. Thomas Cane  
Hon. Charles P. Dykman  
Hon. Patience D. Roggensack  
Hon. David G. Deininger  
Hon. Stuart A. Schwartz  
Susan K. Ullman, Assistant Attorney General  
Attorney Todd G. Smith  
Attorney Jeffrey J. Kassel